

REMARKS

Claims 1 to 24 were pending. Claims 2 to 6, 23, and 24 have been canceled and claims 1, 7 to 9, and 11 have been amended. The subject matter of canceled claim 6 has been added to claim 1. New claim 25 has been added. Support for new claim 25 can be found in Figures 2 to 7. The Examiner withdrew claims 10, 21, 23, and 24 from consideration. Claims 1, 7 to 9, 11 to 20, 22, and 25 will be under examination after entry of the amendments.

The Examiner rejected claims 1 to 4, 11, and 12 under 35 U.S.C. § 102(b) as anticipated by U.S. Patent No. 5,059,183 to Semrad.

Applicants respectfully traverse this rejection of the claims and disagree with the Examiner for the reasons given in the response filed on February 19, 2008. Nevertheless, the claims have been amended to expedite prosecution of this application. The subject matter of claim 6, which was not rejected over Semrad, has been added to claim 1. Claims 2 to 4 have been canceled and claims 11 and 12 depend from amended claim 1. Accordingly, Applicants respectfully request that the Examiner withdraw this rejection of the claims.

The Examiner rejected claims 1, 4 to 7, and 13 to 19 under 35 U.S.C. § 102(b) as being unpatentable over U.S. Patent No. 6,152,946 to Broome et al. ("Broome").

Applicants respectfully traverse this rejection of the claims. Claim 1 recites a medical device comprising an elongated member having opposite first and second ends. Claim 1 has been amended to recite that the first end comprises a delivery sheath and the second end comprises a retrieval sheath. Broome does not teach or suggest such a device.

The Examiner discussed Figure 21 of Broome on pages two and three of the May 30, 2008 Office Action. Broome describes the retrieval sheath 280 of Figure 21 as follows:

FIG. 21 illustrates an embodiment of a retrieval sheath **280** for operation with a distal protection device **282** for collapsing the distal protection device for withdrawal. The retrieval sheath **280** includes a telescoping tubular structure including an outer tubular member **283** and an inner tubular member **284**. Outer tubular member **283** includes a lumen **286**, and inner tubular member **284** extends through lumen **286** and is movable therein to form the telescoping tubular structure.

Outer tubular member **283** is formed of a composite structure including a first tubular portion **288** and a second tubular portion **290**. The first tubular portion **288** includes a proximal end (not shown) and a distal end **292**. The second tubular portion **290** includes a proximal end **294** and a distal end **296**. Proximal end **294** is coupled to distal end **292** of tubular member **288** to form a composite outer tubular structure **283** having a proximal end (not shown) and distal end **296**.

Broome at column 9, lines 50 to 67.

Broome describes a retrieval sheath 280 that includes an outer tubular member 283 and an inner tubular member 284. Column 9, lines 50 to 55. Outer tubular member 283 is formed of a composite structure including a first tubular portion 288 and a second tubular portion 290. Column 9, line 50, to column 10, line 20. The first tubular portion 288 includes a proximal end that is not shown. Column 9, lines 61 and 62.

The Examiner contends that in Figure 21 of Broome, elongated member 283 has opposite first at the proximal end 288 and second ends 296, where both the first and second ends are adapted for intravascular insertion, and where element 288 is considered as a delivery sheath and element 290 is considered as a retrieval sheath. This is incorrect. Element 288 is a first tubular portion 288 not a proximal end. First tubular portion 288 has a proximal end (not shown) and a distal end 292. Figure 21 and column 9, lines 61

and 62. The proximal end of first tubular portion 288 is never described as being configured for intravascular insertion and is never described as comprising a delivery sheath, as required by the pending claims.

While there is a proximal end of first tubular portion 288 of outer tubular member 283, Broome does not show or describe this proximal end. Accordingly, it is just speculation as to what form the proximal end might take. There is no way to know whether the proximal end of Broome meets the language of claim 1 reciting “adapted for intravascular insertion” and “comprising a delivery sheath”. Broome never teaches or suggests that the proximal end should be inserted intravascularly. Broome never teaches or suggests that the proximal end of the retrieval sheath 280 comprises a delivery sheath or could be used to deliver a medical device. In addition, Figure 21 shows a retrieval sheath 280. Applicants do not understand how the Examiner can construe one part of the retrieval sheath 280 (second tubular portion 290) as a retrieval sheath and another part of the retrieval sheath 280 (first tubular portion 288) as a delivery sheath. Both of these elements are part of the retrieval sheath 280.

Accordingly, the subject matter of claim 1 is not taught or suggested by Broome. The same analysis applies to dependent claims 7 and 13 to 16 that are included in this rejection over Broome. Claim 17 recites an elongated member having opposite first and second ends, the first end and second ends both being adapted for intravascular insertion, the first end comprising a delivery sheath, and the second end comprising a retrieval sheath. Therefore, the same analysis applies to claim 17 as to claim 1 and the subject matter of claim 17 is not taught or suggested by Broome. The same analysis applies to dependent claims 18 and 19 that are included in this rejection over Broome.

Claims 7 and 17 recite that the delivery sheath comprises at least one sidewall port adapted for receiving a wire. The Examiner contends that Broome shows a sidewall port “(a sidewall port occurs where a guidewire 32 exits throughout fig. 21)”. Top of page

three of the May 30, 2008 Office Action. Broome does not suggest a sidewall port. Figure 21 shows guidewire 32 exiting distally out of the distal end 296 and extending proximally through the center of the retrieval sheath 280 (and apparently exiting proximally through the proximal end (not shown) of first tubular portion 288). Broome does not contain any teaching or suggestion that the guidewire 32 could exit through a port on the sidewall of the retrieval sheath 280.

In view of the remarks above, Applicants respectfully request that the Examiner withdraw this rejection of the claims.

The Examiner rejected claims 8, 9, 11, 20, and 22 under 35 U.S.C. § 103(a) as being unpatentable over Broome in view of U.S. Patent No. 5,662,703 to Yurek et al. (“Yurek”).

Applicants respectfully traverse this rejection of the claims. Claims 8, 9, and 11 depend from claim 1 and claims 20 and 22 depend from claim 17. As discussed above in connection with claims 1 and 17, Broome does not teach or suggest the subject matter of claims 1 and 17. Because claims 8, 9, and 11 depend from claim 1 and claims 20 and 22 depend from claim 17, the same arguments apply to these claims. Yurek does not remedy the defects of Broome. In view of the remarks above, Applicants respectfully request that the Examiner withdraw this rejection of the claims.

Newly added claim 25 is patentable over the cited references for the same reasons as claims 1 and 17.

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of time under 37 C.F.R. § 1.136 not accounted for above, such an extension is requested and the fee should also be charged to our deposit account.

Respectfully submitted,

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By /Patrick J. O'Connell/

Customer No. 009561

Terry L. Wiles (29,989)

Patrick J. O'Connell (33,984)

Popovich, Wiles & O'Connell, P.A.

650 Third Avenue South, Suite 600

Minneapolis, MN 55402

Telephone: (612) 334-8989

Attorneys for Applicants

poconnell@pwolaw.biz